

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : Jouko Savolainen

TITLE : METHOD FOR STRENGTHENING
A PROTEIN-CONTAINING
PRODUCT AND A PROTEIN-
CONTAINING PRODUCT

APPLICATION NO. : 10/575,156

FILED : April 6, 2006

CONFIRMATION NO. : 6845

EXAMINER : Hamid R. Badr

ART UNIT : 1794

LAST OFFICE ACTION : March 22, 2011

ATTORNEY DOCKET NO. : LOYZ 200004US01

RESPONSE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Notice of Abandonment dated March 22, 2011 in connection with the above-identified application, applicant notes that a Petition to Revive was filed six months ago, on September 30, 2010. A copy of that petition is enclosed. Appended to the petition was an Information Disclosure Statement. A copy of that document is enclosed as well. The Information Disclosure Statement satisfies 37 C.F.R. 1.114(c).

In view of the foregoing, it is respectfully submitted that the instant application should be revived.

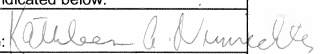
Respectfully submitted,

Fay Sharpe LLP

May 16, 2011

Date


Jay F. Moldovanyi, Reg. No. 29,678
Richard M. Klein, Reg. No. 33,000
George P. Huang, Reg. No. 57,945
The Halle Building, 5th Floor
1228 Euclid Avenue
Cleveland, Ohio 44115-1843
216.363.9000

CERTIFICATE OF MAILING OR TRANSMISSION	
I hereby certify that this correspondence (and any item referred to herein as being attached or enclosed) is (are) being transmitted to the USPTO by electronic transmission via EFS-Web on the date indicated below.	
	Signature: 
Date: May 16, 2011	Name: Kathleen A. Nimrichter

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Certificate of Mailing or Transmission	
I hereby certify that this correspondence (and any item referred to herein as being attached or enclosed) is (are) being transmitted to the USPTO by electronic transmission via EFS-Web on the date indicated below.	
Signature: <i>Kathleen A. Nimrichter</i>	
Date: September 30, 2010	Name: Kathleen A. Nimrichter

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S) : Jouko Savolainen

FOR : **METHOD FOR STRENGTHENING A
PROTEIN-CONTAINING PRODUCT
AND A PROTEIN-CONTAINING
PRODUCT**

SERIAL NO. : 10/575,156

FILED : April 6, 2006

EXAMINER : Hamid R. Badr

ART UNIT : 1794

CONFIRMATION NO. : 6845

ATTORNEY DOCKET NO. : **LOYZ 200004US01**

**PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT
DESIGNATING THE U.S., ABANDONED UNINTENTIONALLY -- UNDER 37 CFR 1.137 (b)**

Attention: PCT Legal Staff
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The above-identified application has become abandoned because the submission required by 37 C.F.R. 1.114(c) was not filed together with the Request for Continued Examination prior to the expiration of the statutory six month time period for

filing a response to the pending Office Action. Enclosed is a copy of the Notice. The date of abandonment was the day after the September 15, 2010 date, as extended by the three month extension of time request, on which the 35 C.F.R. 1.114(c) requirements were due.

Applicant hereby petitions for a revival of this application.

To that end, enclosed herewith please find a petition fee and the necessary documents to satisfy 37 C.F.R. 1.114(c), in this case an Information Disclosure Statement.

The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

Respectfully submitted,

FAY SHARPE LLP

30 Sept 2010
Date

Jay F. Moldovanyi
Jay F. Moldovanyi
Reg. No. 29,678
1228 Euclid Ave 5th Flr
Cleveland, Ohio 44115
(216) 363-9000

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UNITED STATES PATENT AND TRADEMARK OFFICE

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27885 e 09/17/2010


FAY SHARPE LLP
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115

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SEP 21 2010

FAY SHARPE LLP

Paper No.

Application No.:	10/575,156 	Date Mailed:	09/17/2010
First Named Inventor:	Savolainen, Jouku,	Examiner:	BADR, HAMID R
Attorney Docket No.:	LOYZ 200004US01	Art Unit:	1781
Confirmation No.:	6845	Filing Date:	04/06/2006

Please find attached an Office communication concerning this application or proceeding.

DOCKETED

Commissioner for Patents

**NOTICE OF IMPROPER REQUEST FOR
CONTINUED EXAMINATION (RCE)**

Application No.
10/575,156

Applicant(s)
SAVOLAINEN, JOUKU

Art Unit
1794

Date Mailed:

The request for continued examination (RCE) under 37 CFR 1.114 filed on 14 September, 2010 is improper for reason(s) indicated below:

1. ☐ Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d). An RCE cannot be treated as a CPA.
2. ☐ Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b).
3. ☐ Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
4. ☐ The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
5. ☐ The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on _____. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
6. ☐ The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
7. ☒ The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: A continued prosecution application (CPA) under 37 CFR 1.53(d) cannot be filed in a utility or plant application. A CPA filed in a utility or plant application that has a filing date **on or after June 8, 1995** will be treated as an RCE under 37 CFR 1.114. The request for a CPA in the instant application, however, has been treated as an improper RCE for the reason(s) indicated above.

A copy of this Notice MUST be returned with the reply.

Direct any questions concerning this notice to

/phyllis canty/, Technology Center 1700

Telephone Number: 571-272-0996

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S) : Jouko Savolainen

FOR : **METHOD FOR STRENGTHENING A
PROTEIN-CONTAINING PRODUCT
AND A PROTEIN-CONTAINING
PRODUCT**

SERIAL NO. : 10/575,156

FILED : April 6, 2006

EXAMINER : Hamid R. Badr

ART UNIT : 1794

CONFIRMATION NO. : 6845

ATTORNEY DOCKET NO. : **LOYZ 200004US01**

INFORMATION DISCLOSURE STATEMENT

Mail Stop None
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In accordance with 37 C.F.R. §§ 1.56, 1.97, 1.98 and MPEP § 609, applicant(s) submit(s) the following Disclosure Statement concerning information of which the applicant(s) is (are) aware. A copy of PTO/SB/08 Form (renumbered from 1449) is enclosed.

This Information Disclosure Statement should not be construed to be an admission that any information referred to herein or submitted herewith is "prior art" or is considered to be material to patentability for this invention.

The United States Patent and Trademark Office OG Notice dated 12 October 2004 published a final rule revising 37 C.F.R. 1.98 dealing with the content of Disclosure Statements. Paragraph (a)(2) was revised to read in part, "A legible copy of:

(i) Each foreign patent; (ii) Each publication or that portion which caused it to be listed,

other than U.S. patents and U.S. patent application publications unless required by the Office." Therefore, applicant(s) has (have) not enclosed copies of the cited U.S. patents and published patent applications with this Information Disclosure Statement.

In accordance with 37 C.F.R. §1.97(g) and (h), the filing of this Information Disclosure Statement should not be construed to mean that a search has been made or that no other material information as defined in 37 C.F.R. §1.56(b) exists.

☒ Under § 1.98(a)(3), a concise explanation of relevance is required for information that is not in the English language. Accordingly, the English language documents have no further explanation.

☐ All of the cited and/or included documents were cited by the European Patent Office in a related application(s). A copy of the European Search Report is enclosed.

Consideration of the appropriate paragraph(s) indicated below is respectfully requested:

☐ WITHIN THREE MONTHS OF FILING: Under § 1.97(b)(1), this Information Disclosure Statement is being filed within three months of the filing date of the application (or date of entry of the national stage). Although it is believed no fee is necessary, any deficiency in fees should be handled as set forth below.

☐ BEFORE FIRST OFFICE ACTION: Under § 1.97(b)(3), this Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits. Although it is believed no fee is necessary, any deficiency in fees should be handled as set forth below.

☐ BEFORE FIRST OFFICE ACTION: Under § 1.97(b)(4), this Information Disclosure Statement is being filed before the mailing date of a first Office Action after the filing of a request for continuation examination under § 1.114. Although it is believed no fee is necessary, any deficiency in fees should be handled as set forth below.

☐ BEFORE FINAL ACTION, OR NOTICE OF ALLOWANCE, OR ACTION THAT CLOSES PROSECUTION/WITH STATEMENT: Under § 1.97(c)(1), this information shall be considered if filed before the mailing date of a final action, or a

Notice of Allowance or action that otherwise closes prosecution in the application if accompanied by the statement:

Under § 1.97(e)(1), the undersigned states:

☐ A. that each item of information contained in the Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the Information Disclosure Statement; or

☐ B. that no item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the Information Disclosure Statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the Information Disclosure Statement.

☒ **BEFORE FINAL ACTION, OR NOTICE OF ALLOWANCE, OR ACTION THAT CLOSES PROSECUTION/WITH FEE:** Under § 1.97(c)(2), this information shall be considered if filed before the mailing date of a final action if accompanied by a fee in the amount of \$180.00 as required by §1.17(p). Accordingly, the necessary fee accompanies this Information Disclosure Statement, as set forth below.

☐ **AFTER FINAL ACTION, OR NOTICE OF ALLOWANCE, OR ACTION THAT CLOSES PROSECUTION/AND ON OR BEFORE PAYMENT OF THE ISSUE FEE:**

1. Under § 1.97(e)(1), the undersigned states:

☐ A. that each item of information contained in the Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the Information Disclosure Statement; or

☐ B. that no item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in

the Information Disclosure Statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the Information Disclosure Statement; and

2. ☐ the fee in the amount of \$180.00 as required by §1.17(p). Accordingly, the necessary fee accompanies this Information Disclosure Statement, as set forth below.

☐ **PRIORITY CLAIM:** The enclosed PTO/SB/08 includes all patents, publications, or other information previously cited by or submitted to the Office in one or more prior applications from which the present application claims priority. These one or more prior applications are identified in the papers accompanying the filing of this application.

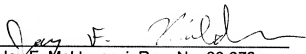
Any payment due for the filing of this Information Disclosure Statement is authorized to be charged to a Credit Card (via EFS-Web). **If the Credit Card is unable to be charged, please charge any and all fees or credit any overpayment to Deposit Account No. 06-0308.** If there are any additional fees required by this communication, please charge same to Deposit Account No. 06-0308.

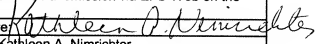
It is respectfully requested that the document(s) listed on PTO/SB/08 Form be considered and officially cited in examination of this application.

Respectfully submitted,

Fay Sharpe LLP

September 30, 2010
Date


Jay F. Moldovanyi, Reg. No. 29,678
The Halle Building, 5th Floor
1228 Euclid Avenue
Cleveland, Ohio 44115-1843
216.363.9000

CERTIFICATE OF MAILING OR TRANSMISSION	
I hereby certify that this correspondence (and any item referred to herein as being attached or enclosed) is (are) being transmitted to the USPTO by electronic transmission via EFS-Web on the date indicated below.	
Express Mail Label No.:	Signature: 
Date: September 30, 2010	Name: Kathleen A. Nimrichter

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INFORMATION DISCLOSURE
STATEMENT BY APPLICANT(S)

Application Number	10/575,156
Filing Date	April 6, 2006
First Named Inventor	Jouko Savolainen
Art Unit	1794
Examiner Name	Hamid R. Badr
Attorney Docket No.	LOYZ 200004US01

Sheet 1 of 1

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No.	Document No. Number-Kind Code (if known)	Publication/Issue Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document
	AA	US-3,053,666	09/11/1962	Henika et al.
	AB	US-6,797,810	09/28/2004	Savolainen
	AC	US-6,869,628	03/22/2005	Krochta et al.
	AD	US-2007/0082093	04/12/2007	Savolainen
	AE	US-		
	AF	US-		
	AG	US-		

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.	Foreign Patent Document Country Code-Number Kind Code (if known)	Publication/Issue Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	T
	AH	WO 97/33600	09/18/1997	Midwest Grain Products, Inc. (English Text)	<input type="checkbox"/>
	AI				<input type="checkbox"/>
	AJ				<input type="checkbox"/>
	AK				<input type="checkbox"/>

OTHER NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	T
	AL	Mangino, Michael E., "Physicochemical Aspects of Whey Protein Functionality", Journal of Dairy Science, 1984, Vol. 67, No. 11, pp. 2711 - 2722.	<input type="checkbox"/>
	AM	Shimada, Kazuko et al., "Sulfhydryl Group/Disulfide Bond Interchange Reactions During Heat-Induced Gelation Of Whey Protein Isolate", J. Agric. Food Chem., 1989, Vol. 35, pp. 329-331.	<input type="checkbox"/>
	AN	Shimada, Kazuko et al., "Texture Characteristics, Protein Solubility, and Sulfhydryl Group/Disulfide Bond Contents of Heat-Induced Gels of Whey Protein Isolate", J. Agric. Food. Chem., 1988, Vol. 36, pp. 1018-125.	<input type="checkbox"/>
	AO		<input type="checkbox"/>

Examiner Signature	Date Considered
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